

LBNL 201 (10412981)

**REMARKS**

Reconsideration of this application, as amended, is respectfully requested.

The specification has been amended to more clearly identify trademarks as requested by the Examiner.

Claims 1-45 have been canceled without prejudice in part due to the restriction requirement. New claims 46-48 are presented.

A copy of the Yannone article cited in the IDS is attached.

Applicants do not acquiesce in the Examiner's assertion that the provisional application does not provide adequate written support under 35 U.S.C. §112, first paragraph, for claims 19 and 22 so that priority under 35 U.S.C. §119(e) cannot be established, and expressly reserve the right to address this issue in a related continuing application. It is, however, believed that the claims as currently presented are entitled to the filing date of the priority provisional application because the claims are supported, e.g., by Example 5 at page 21 of the priority provisional application. Thus, the claims are entitled to a priority date at least as early as April 22, 2002, the filing date of the priority provisional application.

It is respectfully submitted that the 35 U.S.C. §101 rejection of claim 19 does not apply to the presently pending claims because claim 46 indicates that the claimed antibody is purified.

The 35 U.S.C. §112, second paragraph, rejection of claims 19-22 has been rendered moot by cancellation of those claims. Furthermore, it is not believed that this rejection applies to any of the presently pending claims because the language objected to by the Examiner does not appear in the newly presented claims.

The 35 U.S.C. §112, first paragraph, rejection of claim 22 has been rendered moot by cancellation of that claim. It is also respectfully submitted that this rejection does not apply to the presently pending claims.

The 35 U.S.C. §102(a) rejection of claims 19 and 20 over Chan et al. no longer applies because, for reasons discussed above, the claims are entitled to a priority date at least as early as the filing date of the priority provisional patent application, i.e., April 22, 2002, which is prior to the publication date of Chan et al. This rejection, therefore, must be withdrawn.

Claims 19 and 20 were rejected under 35 U.S.C. §102(b) for allegedly being anticipated by Jafri et al. ("Jafri") as evidenced by the LabVision DNA-PKcs Ab-1 datasheet (LabVision) and in further evidence of Chan. Applicants respectfully traverse.

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Neither Jafri nor Labvision disclose that the 18-2 antibody binds SEQ ID: 1 as set forth in new claim 46, and Chan is no longer available as a reference. Therefore, this rejection should be withdrawn.

Additionally, Applicants will submit data showing that the claimed antibody is different than that disclosed by Jafri.

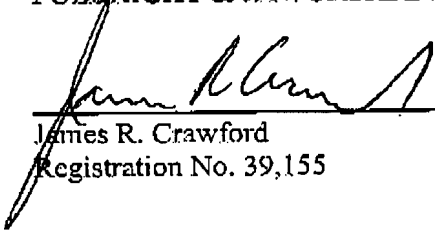
Claims 19-21 were rejected under 35 U.S.C. §103(a) over either of Chan or Jafri as evidenced by LabVision and as further evidenced by Chan or U.S. Patent No. 4,744,982. Applicants respectfully traverse for reasons set forth above with respect to the §102 rejections based on either Chan or Jafri.

In view of the foregoing, allowance is respectfully requested.

Any additional fees may be charged to deposit account no. 50-0624.

Applicants also hereby petition for any necessary extension of time and authorize the necessary fee to be charged to said deposit account.

Respectfully submitted,  
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